IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

MFA.No. 213 of 2002()

AGAINST THE AWARD DT.22.11.2001 IN OP(MV).763/1994 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KALPETTA .
.....

APPELLANT: PETITIONER

ASHIK,S/O. RUKHIYA, AGED 22 YEARS,
THEKKEPEDIYAKKAL HOUSE, RESIDING AT
CHEENIKAL BUILDING, P.O.S.BATHERY,WAYANAD
DISTRICT.

BY ADV. SRI.ESM.KABEER

RESPONDENTS: RESPONDENTS
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1. **THE MANAGING DIRECTOR, SOUTH WAYANAD,**
   MOTOR SERVICE PVT.LTD., P.O.S. BATHERY,
   WAYANAD DISTRICT.

2. **K.C.PAUL, S/O. CHACKO,KURATHIKULANGARA**
   HOUSE, P.O.KALLURMUKKU, NOOLPUZHA,S.BATHERY TALUK,
   WAYANAD DISTRICT

3. **UNITED INDIA INSURANCE CO.LTD.,**
   S.BATHERY BRANCH, P.O.S.BATHERY,WAYANAD,

BY ADV. SRI.M.A.GEORGE - R3

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 30/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.2477/2003 IN MFA.NO.213/2002

DISMISSED

30.05.2007 **SD/- J.B.KOSHY, JUDGE**

SD/- K.P.BALACHANDRAN JUDGE

/TRUE COPY/

P.A. TO JUDGE

tss

J.B. KOSHY and K.P.BALACHANDRAN, JJ.

M.F.A. No. 213 of 2002

Dated this the 30th day of May, 2007

Judgment

Koshy, J.

Appellant at the age of 15 while riding a bicycle met with an accident due to the negligence of the driver of the vehicle insured by the third respondent insurance company. As a result of the accident, he sustained injuries such as 'crush injury right forearm with flexion contracture of right wrist'. He underwent treatment of deformity correction of the wrist and hand by ilisaror method and he also undergone a plastic surgery. He was under treatment for 22 days in the Medical College Hospital, Kozhikode. He was also treated in the Balaji Hospital at Palakkad as an outpatient. At the time of accident, appellant was only a boy of 15 years. Even then, he claimed that he was working as a saw mill employee earning Rs.3,000/- per month. That cannot be believed. No evidence was also adduced to prove the same. The tribunal has taken Rs.1,000/- as the notional monthly income. The accident alleged to have occurred on 12.9.1994. It cannot be stated that

Rs.1000/- taken as notional monthly income is too low. In any event, the tribunal has taken a multiplier of 18. Even if Rs.1,250/- notional income fixed in the second schedule is taken into account, for a person aged 15, multiplier that has to be taken as per second schedule is also 15. Then appellant will get only a lesser amount of Rs.27,000/-. The tribunal has awarded Rs.32,400/- for disability. The medical bills produced were reimbursed. For pain and suffering Rs.10,000/- was awarded. Major contention raised was that doctor certified 25% disability and PW2 doctor proved the same, but, in cross-examination, he stated that the above disability is only to that part of the body and not whole body disability. Therefore, tribunal has taken 15 as the whole body disability. We see no fault in the same.

2. Finally, it was contended that the tribunal ought to have found that the entire medical treatment expenses would not have reflected in the bills. He was in the hospital for 22 days as an outpatient in a private hospital. Apart from the correction treatment, he has also undergone plastic surgery. Considering these aspects, we award Rs.3,500/- more for medical expenses.

3. We find no reason to grant any more amount under other heads. The additional amount of Rs.3,500/- should be deposited by the third respondent with 9% interest from the date of application till its deposit within two months from the date of receipt of a copy of this judgment. On deposit of the amount, the appellant can withdraw the same.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

vaa

J.B. KOSHY AND
K.P.BALACHANDRAN, JJ.

M.F.A. NO.213/2002

JUDGMENT

Dated:30th May, 2007